

Civil Writ Petition No.4940/1994
Ahmed Hussain Versus
State of Rajasthan & Others

Date of Order :: 09/11/05

Hon'ble Mr. Justice Ajay Rastogi

Mr. Tripurari Sharma, for petitioner
Mr. H.V.Nandwana Dy.Govt.Adv. , for respondents.

Instant petition has been filed questioning validity of Order dt.16/06/92(Ann.14) passed by Labour Court, Kota rejecting industrial dispute raised by the petitioner.

Petitioner workman, as alleged by him, was appointed on daily wages basis on 15/01/75 and his services were dispensed with effect from 30/05/83.

Counsel for petitioner submits that finding recorded by Tribunal with respect to non-compliance of S.25-F & 25-G of Industrial Disputes Act,1947 ("the Act"), because one months notice pay under the Act was sent by money order on 29/05/83 and was never served upon him while his services were dispensed from 30/05/83, as such respondents failed to make payment of one month's notice pay and compensation as required U/s 25-F of the Act. Counsel further urged that S.25-G of the Act was also not complied with in true spirit as petitioner was appointed with effect from 15/01/75 and those who were juniors to him were retained in service but the Tribunal proceeded on premises that he was appointed initially on 11/11/76 and on the basis of which, the Tribunal recorded finding that no juniors can be said to have been retained in violation of S.25-

G of the Act.

Counsel for respondents contended that Labour Court, after taking note of materials on record, concluded that there was no violation of S.25-G or S.25-F of the Act and it is a finding of fact which ordinarily is not required to be interfered with unless it is found to be perverse and that apart, he was working on daily wages basis and now being out of employment since 1983, must have been employed elsewhere.

I have considered rival contentions of both the parties and with their assistance perused material on record. On the basis of material and evidence led by either side, after appreciation whereof, the Tribunal recorded finding of fact that petitioner workman was engaged with effect from 11/11/76 and taking this date of his appointment, no person junior to him has been shown to have been retained in service while dispensing with his services. In my considered opinion, no error has been committed by Tribunal in recording finding with respect to non-violation of S.25-G of the Act.

As regards S.25-F of the Act, this fact is not disputed that petitioner worked for more than 240 days and respondents were required to comply with mandatory requirement of aforesaid section. However, this fact stands established on the basis of evidence available on record that money order consisting of wages for one month in the form of advance notice pay so also compensation computed on the basis for each completed years of service was sent to the petitioner,

which has not been disputed by him also, but only fact disputed is that it was not tendered before the date of retrenchment made effective from 30/05/83. However, from material on record, it stands established that money order was sent to him and a note appended thereto has been reproduced in para 7 of impugned Award, which clearly depicts that efforts were made to tender requisite amount under the Act, and that apart, vide notice sent by hand on 29/05/83, he was also offered to accept the aforesaid amount of notice pay & compensation, by appearing before concerned authority by 4.00 P.M. In support of aforesaid facts, documents have also been produced on record, in order to justify action on the part of respondents for compliance of mandatory requirement of S.25-F of the Act.

In this view of matter, I find no error in finding of fact recorded by Tribunal while rejecting dispute raised by petitioner. Consequently, this writ petition fails and is hereby dismissed alongwith Stay petition No.4358/94. No order as to costs.

(Ajay Rastogi), J.

K.Khatri/4940CWP1994.